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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,636	09/26/2003	Shabbir A. Khakoo	633-040US	8093
47912	7590	09/23/2009		
Avaya DEMONT & BREYER, LLC 100 COMMONS WAY, STE 250 HOLMDEL, NJ 07733			EXAMINER BATES, KEVIN T	
			ART UNIT 2456	PAPER NUMBER
			NOTIFICATION DATE 09/23/2009	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@dblaw.com

# Office Action Summary

**Application No.**

10/672,636

**Applicant(s)**

KHAKOO ET AL.

**Examiner**

KEVIN BATES

**Art Unit**

2456

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Response to Amendment***

This Office Action is in response to a communication made on July 8, 2009.

Claims 1-25 are currently amended.

Claims 1-25 are pending in this application.

***Response to Arguments***

Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

The applicant is further reminded that any general allegation of patentability does not specify, as required, how the highlighted language patentably distinguishes the claimed invention. This form of argument is wholly ineffective in demonstrating error in the Examiner's prima facie case to establish the patentability of the claims on appeal.

Ex parte Belinne, Appeal No. 2009-004693, decided Aug. 10, 2009, (BPAl)

(informative). Available at:

<http://www.uspto.gov/web/offices/dcom/bpai/its/fd09004693.pdf>.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Appelman (WO 03/098425) in view of Fiskel (6839737).**

**Regarding claims 1 and 19,** Appelman teaches a method for delivering an email message to a recipient, comprising:

receiving the email message from a sender (Page 19, lines 14-15);

obtaining a presence status of the sender from a presence server (Page 20, lines 17-22; Page 21, lines 4-7; 29-31), wherein the presence status indicates a presence status of the sender across a plurality of domains (Page 21, lines 29-31); and

delivering the email message to the recipient with an indication of a presence of the sender (Page 2, lines 8-14) on one or more of the plurality of domains (Page 21, lines 29-31).

Appelman does not explicitly indicate wherein the presence status is obtained if and only if the recipient has a permission to receive the sender's presence status.

Friskel teaches a system for an email recipient to obtain the online status of a email sender which further teaches giving recipients permission to obtain the sender's online status (Col. 3, lines 21 – 36).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Friskel's teaching to allow the sender to protect his status from unknown and unwelcome users.

**Regarding claims 2 and 20,** Appelman teaches the method of claims 1 and 19, wherein the presence server extracts presence information from a plurality of presence data stores (Page 20, lines 17-22).

**Regarding claims 3 and 21**, Appelman teaches the method of claims 2 and 20, wherein the presence server translates the presence information to a standard format (Figure 11a).

**Regarding claims 4 and 22**, Appelman teaches the method of claims 1 and 19, wherein the presence server determines the presence status of the sender based on one or more rules that aggregate extracted presence information (Page 22, lines 13-19).

**Regarding claims 5 and 23**, Appelman teaches the method of claims 1 and 19, wherein the recipient responds to the sender in another domain (Page 21, lines 29-31).

**Regarding claims 6 and 24**, Appelman teaches the method of claims 1 and 19, wherein the presence information indicates if the message sender can be reached at one or more indicated devices (Page 21, lines 29-31).

**Regarding claim 7**, Appelman teaches the method of claim 1, wherein the presence information is obtained from a user registration process (Page 22, lines 8-11).

**Regarding claim 8**, Appelman teaches the method of claim 1, wherein the presence information is obtained by observing activities of a user (Page 22, lines 8-11).

**Regarding claim 9**, Appelman teaches the method of claim 1, wherein the recipient can respond to the sender in real time (Page 21, lines 29-31).

**Regarding claim 10**, Appelman teaches the method of claim 1, wherein the recipient can respond to the sender in non-real time (Page 21, lines 29-31).

**Regarding claims 11 and 25**, Appelman teaches the method of claims 1 and 19, wherein the recipient can respond to the sender using a non-textual form of communication (Page 21, lines 29-31).

**Regarding claim 12**, Appelman teaches the method of claim 1, wherein the plurality of domains is a plurality of client domains (Page 21, lines 29-31).

**Regarding claim 13**, Appelman teaches the method of claim 1, wherein the plurality of domains is a plurality of server domains (Page 24, lines 3-17).

**Regarding claim 14**, Appelman teaches a method for delivering an email message to a recipient, comprising:

receiving the email message from a sender (Page 19, lines 14-15);

obtaining a presence status of the sender across a plurality of domains (Page 20, lines 17-22; Page 21, lines 4-7; 29-31);

delivering the email message to a recipient with an indication of a presence of the sender on one or more of the domains (Page 21, lines 29-31).

Appelman does not explicitly indicate automatically initiating a communication with a device at which the sender is believed to be present, wherein the initiated communication is not an email communication.

Friskel teaches automatically initiating a communication with a device at which the sender is believed to be present, wherein the initiated communication is not an email communication (Col. 5, lines 28 – 49).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Friskel's teaching of allowing real-time communication in response to an email to facilitate better communications between users of the network.

**Regarding claim 15** Appelman teaches claim 14, wherein the recipient responds to the sender in another domain (Page 21, lines 29- 31).

**Regarding claim 16**, Appelman teaches claim 14, wherein the recipient can respond to the sender in real time (Page 21, lines 29-31).

**Regarding claim 17**, Appelman teaches claim 14, wherein the recipient can respond to the sender in non-real time (Page 21, lines 29-31).

**Regarding claim 18**, Appelman teaches claim 14, wherein the recipient can respond to the sender using a non-textual form of communication (Page 21, lines 29-31).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN BATES whose telephone number is (571)272-3980. The examiner can normally be reached on M-F 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KEVIN BATES/  
Primary Examiner, Art Unit 2456